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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SHIRLEY CRONIN, *et al.*,

Plaintiffs,

vs.

TODD SHIPYARDS CORPORATION,
et al.,

Defendants.

C 08-03274-MMC

JOINT MOTION AND STIPULATION TO
 STAY PROCEEDING OR, IN THE
 ALTERNATIVE, TO CONTINUE CASE
 MANAGEMENT DEADLINE AND
 CONFERENCE, AND TO EXTEND TIME;
~~[PROPOSED]~~ ORDER TO STAY;
~~[PROPOSED ALTERNATIVE]~~ ORDER
 TO CONTINUE DIRECTING PARTIES TO
 FILE JOINT STATUS REPORT

Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and respectfully move the Court for, an Order extending time as set forth in the *Case Management Scheduling Order* filed July 8, 2008 (Document 2) , for the following good cause:

On August 4, 2008, Defendants TODD SHIPYARDS CORPORATION filed Notice to Tag Along Action regarding the pending Multidistrict Litigation (“MDL”) in the Eastern District of Pennsylvania, seeking among other things, to move Jurisdiction of this matter to that District (Document 7). Defendant TODD SHIPYARDS CORPORATION acknowledged that Notice to Tag Along Action was mailed to the Judicial Panel on Multidistrict Litigation (“JPML”) pursuant to 28 U.S.C. § 1407; said notice to the JPML from counsel being necessary to initiate the transfer process.

1 On July 29, 1991, the JPML entered an order transferring all asbestos personal injury
2 cases pending in the federal courts to the United States District Court for the Eastern District of
3 Pennsylvania, for coordinated pretrial proceedings pursuant to 28 U.S.C. § 1407. (*In re Asbestos*
4 *Products Liability Litigation (no. VI)*. MDL No. 875., 771 F.Supp. 415 (1991)). That order also
5 applies to “tag-along actions,” or actions involving common questions of fact filed after January
6 17, 1991. Such actions are to be transferred to the eastern District of Pennsylvania as part of
7 MDL 875, for coordinated pretrial proceedings.

8 The JPML has held that a district court has the authority to stay pending a transfer order.
9 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)
10 (“[T]hose courts concluding that such issues should be addressed by the transferee judge need
11 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any
12 unnecessary interruption or delay.”)

13 The parties agree that it is likely that the JPML will transfer this matter to the Eastern
14 District of Pennsylvania. The Clerk of the JPML has not entered a *Conditional Transfer Order*
15 pursuant to JPML Rule 12(a) or filed an order to show cause why the action should not be
16 transferred, pursuant to JPML Rule 13(b). It is likely the dates set forth in the *Case Management*
17 *Scheduling Order* including the deadlines imposed by Federal Rules of Civil Procedure, Rule
18 26, will pass before the Clerk of the JPML acts.

19 In addition, Defendant GENERAL DYNAMICS CORPORATION has not answered.

20 The parties make this Motion on the grounds that a stay of this action would (a) promote
21 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the
22 parties.

23 For the reasons above, the parties hereby STIPULATE to and respectfully request the
24 Court VACATE its *Case Management Scheduling Order* and that the Court issue an Order
25 STAYING this action pending the outcome of the MDL Panel’s decision on the merits of the
26 transfer.

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1 In the alternative, the parties hereby STIPULATE to and respectfully request that this
2 Court vacate and continue the dates set forth in the *Case Management Scheduling Order* pending
3 the outcome of the JPML's decision on the merits of the transfer.

4 Dated: August 27, 2008

BRAYTON❖PURCELL LLP

/s/ David R. Donadio

By:

David R. Donadio
Attorneys for Plaintiffs

7 Dated: August 28, 2008

YARON & ASSOCIATES

/s/ Keith E. Patterson

By:

Keith E. Patterson
Attorneys for Defendant
TODD SHIPYARDS CORPORATION

12 Dated: September 2, 2008

CHARTER DAVIS, LLP

/s/ Maria S. Rosenfeld

By:

Maria S. Rosenfeld
Attorneys for Defendant VIAD CORP

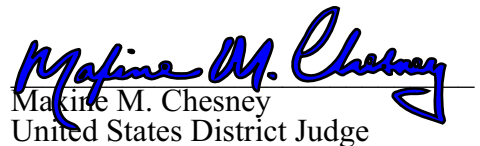
16 ~~PROPOSED~~ ORDER TO STAY

Conference

18 IT IS HEREBY ORDERED that the ~~hearing~~ date and deadlines specified in the *Case*
19 *Management Scheduling Order* dated July 8, 2008, are hereby VACATED and that this action is
20 STAYED pending the outcome of the JPML's decision on the merits of the transfer.

21 The parties are DIRECTED to file, no later than November 21, 2008, a Joint Status
Report.

22 Dated: September 18, 2008

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Makine M. Chesney
United States District Judge

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